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MONTANA LEGISLATIVE HISTORY

Chapter 268 1987

Bill H _____ S 180 Original bill & history ✓ C

H. Committee on Local Gov't		S. Committee on Local Gov't	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
3/4	___C	1/27	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 3/4	✓C	out 1/29	✓

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE BILL NO. 180

INTRODUCED BY HARDING, VAUGHN

IN THE SENATE

JANUARY 21, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
FEBRUARY 2, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 3, 1987	PRINTING REPORT.
FEBRUARY 5, 1987	SECOND READING, DO PASS.
FEBRUARY 6, 1987	ENGROSSING REPORT.
FEBRUARY 7, 1987	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
MARCH 5, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 7, 1987	SECOND READING, CONCURRED IN.
MARCH 9, 1987	THIRD READING, CONCURRED IN. AYES, 95; NOES, 1.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 18, 1987	RECEIVED FROM HOUSE.
	SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 19, 1987

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

Senate BILL NO. 180

INTRODUCED BY Harding Vaughn

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXEMPTION FROM SUBDIVISION SURVEY REQUIREMENTS IN CERTAIN CIRCUMSTANCES FOR PURPOSES OF RECORDING INSTRUMENTS RELATING TO LAND; AMENDING SECTION 76-3-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-302, MCA, is amended to read:

"76-3-302. Restrictions on recording instruments relating to land subject to surveying requirements. ~~The~~ (1) Except as provided in subsection (2), the county clerk and recorder of any county ~~shall~~ may not record any instrument which purports to transfer title to or possession of a parcel or tract of land which is required to be surveyed by this chapter unless the required certificate of survey or subdivision plat has been filed with the clerk and recorder and the instrument of transfer describes the parcel or tract by reference to the filed certificate or plat.

(2) Subsection (1) does not apply to any instrument of transfer which shows on its face that the parcel or tract to be transferred is a tract created before July 1, 1973."

NEW SECTION. Section 2. Effective date. This act is effective on passage and approval.

-End-

LC 0765/01

INTRODUCED BILL
SB-180

2/16 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/18 2ND READING NOT PASSED 38 9

SB 179 INTRODUCED BY BECK, MEYER
REPEALING PRORATION OF MOTOR VEHICLE FEES WITH EXCEPTIONS
BY REQUEST OF DEPARTMENT OF JUSTICE

1/21 INTRODUCED
1/21 REFERRED TO HIGHWAYS & TRANSPORTATION
1/21 FISCAL NOTE REQUESTED
1/27 FISCAL NOTE RECEIVED
2/05 HEARING
2/17 COMMITTEE REPORT--BILL PASSED
2/19 2ND READING PASSED 50 0
2/21 3RD READING PASSED 49 0

TRANSMITTED TO HOUSE
2/23 REFERRED TO TAXATION
3/26 HEARING
4/10 TABLED IN COMMITTEE

SB 180 INTRODUCED BY HARDING, VAUGHN
RECORDING INSTRUMENTS RELATING TO LAND SUBJECT TO SURVEY REQUIREMENT

1/21 INTRODUCED
1/21 REFERRED TO LOCAL GOVERNMENT
1/27 HEARING
2/02 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/05 2ND READING PASSED 49 0
2/07 3RD READING PASSED 47 0

TRANSMITTED TO HOUSE
2/11 REFERRED TO LOCAL GOVERNMENT
3/04 HEARING
3/05 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/07 2ND READING CONCURRED 87 0
3/09 3RD READING CONCURRED 95 1

RETURNED TO SENATE WITH AMENDMENTS
3/18 2ND READING AMENDMENTS CONCURRED 48 0
3/19 3RD READING AMENDMENTS CONCURRED 49 0
3/24 SIGNED BY PRESIDENT
3/25 SIGNED BY SPEAKER

3/25 TRANSMITTED TO GOVERNOR
3/29 SIGNED BY GOVERNOR
CHAPTER NUMBER 268 EFFECTIVE DATE: 3/29/87

SB 181 INTRODUCED BY VAN VALKENBURG, GRADY
SUSPENDING DRIVER'S LICENSE FOR FAILURE TO APPEAR OR TO PAY FINE

1/21 INTRODUCED
1/21 REFERRED TO JUDICIARY
1/21 FISCAL NOTE REQUESTED
1/29 FISCAL NOTE RECEIVED
1/29 HEARING
2/04 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/07 2ND READING PASSED 47 0
2/10 3RD READING PASSED 44 6

TRANSMITTED TO HOUSE

50TH LEGISLATIVE SESSION
MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 27, 1987

The sixth meeting of the Local Government Committee was called to order at 1 p.m. on January 27, 1987, by Chairman Bruce Crippen in Room 405 of the Capitol.

ROLL CALL: All committee members were present.

HEARING ON SENATE BILL 148: Senator Al Bishop of Billings, District 46, sponsored the bill. He distributed Exhibit 1, a letter from S. R. "Pete" McEwen of Hawk Electric & Plumbing Supply Co. of Great Falls. Senator Bishop said that consolidating counties is presently provided by law. The difference with this bill is that it reduces the number of registered electors required from 50% to 10% to petition for consolidation. A vote of the people would still be required. Senator Bishop proposed by his bill, a method of reducing taxes--less government means less cost to the taxpayers. The bill was requested by Commissioner Mackay of Billings, who feels 20 to 25 counties would be sufficient in Montana.

PROPONENTS: There were no proponents.

OPPONENTS: There were no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Hammond asked if this would allow Silver Bow to take over nearby counties. Senator Bishop answered there are many built-in safeguards to prevent undesirable results. The law permits parts of counties to join together, or whole counties to join together, but this bill only pertains to the 10% petition requirement.

Senator Harding asked how the 10% was determined, and Senator Bishop said he felt 50% was restrictive.

Senator Eck commented on parts of county dissidents splitting off, and thought that the bill would get more support if it was restricted to whole county consolidation.

Senator Crippen asked if the lease continued should the property owner decide to purchase the land. Mr. Hemmer said he'd have to research that. He said if a piece of commercial land is sold, the lease terminates with the sale.

Senator Crippen asked if the law didn't already allow for the sale of this type of property. Mr. Hemmer said no, not if you are on a navigable river or lake. This law would change that.

Senator Eck asked if someone other than the cabin owner won the bid, would the cabin owner be compensated for the improvements.

Mr. Hemmer said the land buyer and the cabin owner would have to settle on a price for the cabin. If they were not able to, then it would have to be arbitrated. If the arbitration is disputed, it could then be appealed to the department, who would decide if the arbitration was fair. Another option is that the cabin owner can remove the cabin from the property.

Senator Harding asked if the improvements were taxable. The answer was yes.

Senator Crippen asked if 20 cabin sites were adjacent to one another, what would happen if 10 wanted to have the option to buy and the other 10 didn't. Mr. Hemmer said the department would not be able to put any up for sale unless all property owners were willing.

Senator Eck asked if the state was likely to stop renewing these leases to cabin owners. Mr. Hemmer felt it was unlikely, as they did make money.

The hearing closed on Senate Bill 158.

HEARING ON SENATE BILL 180: Senator Ethel Harding, Polson, District 25, sponsored Senate Bill 180, which pertained to recording instruments relating to land subject to survey requirement. She said her bill was requested by the State Clerks and Recorders. It provides for land that was sub-divided prior to the July 1, 1973 Subdivision Act be recorded, and that a notation be made on the face of the document. However, she said there is no subdivision survey or plat to go with it. She said the title companies had suggested an amendment to show the page and number of a previously recorded document. It places the burden of proof

on the party doing the recording, to show that it was subdivided prior to 1973.

PROPONENTS: Sue Bartlett, Clerk and Recorder of Lewis and Clark County, said that present law prohibits a clerk and recorder from recording a property transfer without reference to a COS (Certificate of Survey). This bill would change that. She agreed the title companies' proposed amendment had merit.

Gene Phillips, Kalispell, appeared on behalf of the Montana Land Title Association. He stated he supports the bill and the proposed amendment.

Bill Gowen, president of the Helena Abstract and Title Company, suggested the bill be amended to refer back to a recorded document that created the subdivision prior to the Subdivision Platting Act of July 1, 1973. The procedure has been to refer to the previous deed reference or COS.

OPPONENTS: There were no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Pinsoneault asked how a person could prove their property was subdivided prior to the Subdivision Act of 1973. Mr. Gowen said it was not a problem to get the last deed of reference.

Senator Harding closed the hearing saying she felt the bill cleared up a gray area in the law. She asked that the title companies and Sue Bartlett work to clarify the intent by changing some language.

EXECUTIVE SESSION:

SENATE BILL 135 (Bishop): Senator Story presented an amendment (see Exhibit 3). Karen Renne, staff researcher, said the amendments were prepared at the request of the Department of Commerce, who felt any action should be handled by an amended plat, and felt more than one lot should be allowed to participate in this property line adjustment. (see Exhibit 4)

The committee discussed the amendments. Senator Story thought they defeated the purpose of the bill. Senator Eck thought review was necessary. Chairman Crippen said that if the boundaries are changed, then the platted parcel is either being increased or decreased and should be reviewed. Margaret Clark of the Department of Commerce said 5 or fewer lots within the plat are done on a COS, and 6 or more would be done on an amended plat. The Depart-

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date Jan. 27, 1987

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	X		
R. J. PINSONEAULT	X		
TOM BECK	X		
DOROTHY ECK	X		
H. "SWEDE" HAMMOND	X		
ETHEL HARDING	X		
LES HIRSCH	X		
PETER STORY	X		
ELEANOR VAUGHN	X		
MIKE WALKER	X		

Each day attach to minutes.

DATE Jan. 27, 1987

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Irene Nielsen		158	✓	
Vicki Quigley		158	✓	
Dennis Hemmer	Dept of State Lands	158	✓	
Kara Sternitzky	League of Women Voters	SB 48		
Gordon Morris	MACo			
Bill Gowen	Montana Land Title Assn	180	✓	
DAN CAMP	SELF	158	✓	
D.L. Quigley		158	✓	
Earl Hunter	Dead Man's Bar & Cabins	158	✓	
Don Hoyle	Mt. Chamber of Commerce	148		
GENE PHILLIPS	MLTA	180	✓	
Margaret Clark	Dept of Commerce	135	✓	

(Please leave prepared statement with Secretary)

the cabin could be moved off the land. Another issue was that sometimes lessees were told they could no longer lease and are told to remove their cabins. Under this bill, the lessee would have to request that his leased land be put up for sale.

Senator Crippen distributed a letter from the Missoula County Board of Commissioners encouraging passage of the bill. (See Exhibit 4)

Senator Story moved that Senate Bill 158 DO PASS. The motion FAILED by a vote of 4 to 6. Those voting no were Senators Pinsoneault, Beck, Hammond, Hardin, Hirsch and Vaughn.

Senator Hammond then moved that the motion be reversed to a DO NOT PASS. The motion CARRIED by a vote of 6 to 4, with Senators Crippen, Eck, Story and Walker voting no.

ACTION ON SENATE BILL 180. Karen Renne distributed the County Clerks and Recorders amendments to Senate Bill. (See Exhibit 5)

Senator Harding moved the amendments. The motion carried unanimously. She then moved that Senate Bill 180 DO PASS AS AMENDED. The motion carried UNANIMOUSLY.

In regard to Senate Bill 211 and Senate Bill 203, it was decided no action be taken until further study was made.

There being no further business before the committee, the meeting adjourned.

SENATOR BRUCE D. CRIPPEN, Chairman

rj

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 6
DATE 1-29-87
BILL NO. SB 180

Senate Committee on Local Government January 29, 1987

AMENDMENTS TO SENATE BILL 180
(county clerks and recorders)

1. Page 1, lines 22 and 23.
Following: "apply" in line 22
Strike: remainder of line 22 through "that" in line 23
Insert: "when"

2. Page 1, line 24.
Following: "transferred"
Strike: "is a tract"
Insert: "was"
Following: "1973"
Insert: ", and the instrument of transfer for the parcel or tract includes a reference to a previously recorded instrument or is accompanied by documents that demonstrate that the parcel or tract existed before July 1, 1973"

3. Page 1, following line 24.
Insert: "(3) The reference or documents required in subsection (2) do not constitute a legal description of the property and may not be substituted for a legal description of the property."

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 4, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on March 4, 1987 at 1:00 p.m. in Room 312-F of the State Capitol.

All members were present with the exception of Rep. Brandewie, Rep. Gilbert and Rep. Squires who were excused. Reps. Brandewie and Squires joined the meeting later. Rep. Ramirez was absent.

CONSIDERATION OF SENATE BILL 204: Senator Gene Thayer, Senate District 19 and sponsor of the bill, stated in the 1985 session a bill was passed that set up the provisions for a centennial commission to sell centennial license plates. In the same bill it was mandated that the county treasurers be responsible for handling that. Originally, of the $19.89 for the plates, $5 was going to be retained by the treasurers. A Senate amendment changed HB 204 so that an additional $3 be added to the cost of the plates to help defray the cost of issuing the plates. The centennial commission will get the same amount. Senator Thayer stated the money was to be deposited in the county treasurers fund and that has been modified so the county treasurers will collect the fee but the money will be deposited in the county general fund.

PROPONENTS: Gordon Morris, MACo, recalled that in the 1985 session two bills were introduced: HB 675, which MACo supported, proposed a $25 commemorative license fee. The money would have gone all to local governments. In SB 419 all the revenue was lost. He felt the $3 amount to go back to counties to help defray the cost is reasonable and asked for support.

Court Harrington, County Treasurers' Association, stated it was the Association's request to introduce the bill. When the 1985 bill was passed, the license plates were to be issued at no cost to the state. County treasurers, as a political subdivision of the state, felt they should also have no cost to them. As SB 204 was introduced in the Senate originally, the centennial commission was opposed. With the amendment, the treasurers and commission came to a compromise and he urged concurrence in the bill.

Dick Michelotti, Past President of the Treasurers' Association and Cascade County Treasurer, presented handouts to the committee (Exhibits 1 and 2). The cost to Cascade County for issuing the plates is a little over $20,000. At the time of the Senate hearing on SB 204, Cascade County had sold approximately 99 centennial plates. Since, then they have been working with the people in trying to get the plates out and have sold over 300.

OPPONENTS: None.

Senator Thayer in closing commented if the bill was acted upon favorably, Rep. Poulsen would carry the bill on the House floor.

CONSIDERATION OF SENATE BILL 125: Senator Ethel Harding, Senate District 25 and sponsor of the bill, stated SB 125 was requested by the Clerk and Recorders Association and is a technical bill to clean up and make the process work better. It revised procedures relating to actions on consolidation of county offices to conform to state election laws. If the county commissioners or a petition by the people would decide to consolidate, the election laws have been changed to fit within the scope of convenience.

PROPONENTS: Sue Bartlett, MT Association of Clerks and Recorders and Lewis and Clark County Clerk and Recorder, presented a handout that shows the changes that would be made and the various deadlines for actions to take place in order to consolidate county offices (Exhibit 3). The changes in SB 125 would not alter the procedures but would only alter the timelines on which the procedures would occur.

OPPONENTS: None.

Senator Harding in closing stated the change is very needed so that someone would not be on a ballot that would be in a consolidated office in the fall. She stated it could very well end up in a lawsuit.

CONSIDERATION OF SENATE BILL 180: Senator Harding, Senate District 25 and sponsor of the bill, stated she had amendments to the bill presented by the Clerks and Recorders (Exhibit 4). SB 180 was requested by the Clerks and Recorders Association. The purpose of the bill is to put the responsibility on the party who is recording documents that have been previously cut out prior to the Subdivision and Platting Act of July 1, 1973. Because that goes back a long way, it has left a gray area for the clerk and recorders to investigate and find these documents. Sometimes the documents are still in escrow.

It would prvent them from having a survey if they have a document that shows the division of property was made prior to July 1, 1973.

PROPONENTS: Robert Helding, MT Association of Realtors, thought it made good sense to clear up a problem that has been in the clerks office and SB 180 will help in the transaction and transfer of property.

Sue Bartlett, Clerk and Recorders Association, stated currently the Subdivision and Platting Act prohibits the clerk and recorder from recording any document which transfers title of land without the document that is transferring the title referencing the survey number that created the division of land. Frequently, instruments of transfer come into the office without a reference to survey number and administratively most clerk and recorders require that people either give the book and page number of a previously recorded document or a survey number in order to make sure the deed is not accepted illegally. The intent of the bill is to place what is being done administratively in the clerk's office into state law to give everyone adequate notice that it is a requirement.

OPPONENTS: None.

Senator Harding in closing commented that if SB 125 would be concurred in she would ask Rep. Sales to carry it on the House floor and would ask Rep. Brandewie to carry SB 180.

CONSIDERATION OF SENATE BILL 255: Senator Jacobson, Senate District 36, stated SB 255 would amend the Municipal Zoning and Enabling Act. The amendment was formed by the Butte-Silver Bow Planning Department based on some experiences they had in Butte Silver-Bow County and the local board of adjustments. Current statutes require that there be concurrence of four of the five members on the board. If a member is absent or disqualified because of conflict of interest, permit applications can be postponed because the membership cannot vote. SB 255 would allow the flexibility to dispose of the cases in a more timely manner. Senator Jacobson stated the amendment has been discussed with the MT Association of Planners and they have indicated their support.

PROPONENTS: Jeffrey Smith, Member Butte-Silver Bow Planning Staff, commented they proposed the amendment because the lack of flexibility in processing permit applications for development where there were not enough members to vote has caused hardship on the staff but especially on the part of the applicant and the public who came to testify at a hearing. Also with the short building season this creates problems in getting projects into the building

stages. Mr. Smith stated that a timely disposition of cases before a zoning board of adjustments makes the permit process run more smoothly and encourages development in conformance of local codes rather than not bothering with the process and causing problems.

OPPONENTS: None.

Senator Jacobson in closing commented that Rep. Brown would carry the bill on the House floor if it was concurred in.

EXECUTIVE ACTION
DISPOSITION OF SENATE BILL 255: Rep. Sales moved that SB 255 BE CONCURRED IN. The question was called and the motion carried unanimously.

DISPOSITION OF SENATE BILL 204: Rep. Darko moved that SB 204 BE CONCURRED IN. The question was called and the motion carried with Reps. Brandewie, Gould, Kitselman and Sales voting no.

Rep. Squires joined the meeting at this time.

DISPOSITION OF SENATE BILL 125: Rep. Sales moved that SB 125 BE CONCURRED IN. The question was called and the motion carried unanimously.

DISPOSITION OF SENATE BILL 180: Rep. Brandewie moved that SB 180 BE CONCURRED IN and the AMENDMENTS BE CONCURRED IN.

Lee Heiman changed the wording of the amendment to make it clear.

The question was called on the amendment and the motion carried unanimously.

Rep. Brandewie moved that SB 180 BE CONCURRED IN AS AMENDED. The question was called and the motion carried unanimously.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 1:40 p.m.

Rep. Norm Wallin, Chairman

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/4/87

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		✓
REP. BUDD GOULD	✓		
REP. REP. TIMOTHY WHALEN	✓		
REP. PAULA DARKO	✓		
REP. TOM BULGER	✓		
REP. JAN BROWN	✓		
REP. BOB GILBERT			✓
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA	✓		
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ		✓	
REP. DAVE BROWN	✓		
REP. CAROLYN SQUIRES	✓		✓

CS-30

STANDING COMMITTEE REPORT

March 4 19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report SB 180

☐ do pass ☒ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Rep. Norm Wallin Chairman

1. Page 2, line 2.
Following: "INSTRUMENT"
Insert: "of transfer"
Strike: "THAT"
Insert: "which, if recorded, would otherwise satisfy the requirements of this subsection. The reference or document must"

THIRD reading copy (BLUE color)